

Assembly Bill No. 1684

CHAPTER 918

An act to amend Sections 10290, 10290.1, 10301, 10302, 10306, 12100, and 12101.5 of, to repeal Sections 10324 and 12110 of, and to repeal and add Section 10298 of, the Public Contract Code, relating to public contracts.

[Approved by Governor September 29, 2000. Filed
with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1684, Committee on Information Technology. Public contracts.

Existing law authorizes the Department of General Services to contract with suppliers to obtain materials, supplies, equipment, and services.

This bill would make various corrective and clarifying changes to these provisions, including revising provisions that authorize the department to assist local government entities in procuring various goods and services. The bill would also revise provisions governing the department's acquisition of information technology.

Existing law relating to state agency procurement generally requires all written contracts for the sale or hiring of materials, supplies, or equipment in an amount of \$10,000 or more, and all other purchases or hiring of the same in an amount of \$10,000 or more, to be made or entered into with the lowest responsible bidder meeting specifications.

This bill would instead make that provision applicable to the acquisition or lease of goods, increase the specified dollar amount to \$25,000, and make conforming changes in related provisions.

This bill would revise the notice requirements where a contract or purchase order is not to be awarded to the lowest bidder by eliminating the requirement that the notice be by telegram.

The people of the State of California do enact as follows:

SECTION 1. Section 10290 of the Public Contract Code is amended to read:

10290. As used in this chapter:

- (a) "Department" means the Department of General Services.
- (b) "Director" means the Director of General Services.
- (c) "Centralized purchasing" means the purchase for state agencies of materials, supplies, and equipment by the Office of Procurement.

(d) “Goods” means all types of tangible personal property, including materials, supplies, and equipment.

(e) “Office” means the Office of Procurement in the Department of General Services.

(f) “Price schedule” means an agreement between the Office of Procurement and a supplier under which the supplier agrees to accept orders from the office or a state agency for specified goods at set prices for a specified period of time but which does not obligate the office or state agencies to contract for the specified goods from the supplier.

(g) “Regional contract” means a contract of the same type as a statewide contract but applicable only to specified contracting in a particular area or region of the state.

(h) “Statewide contract” means a contract awarded by the Office of Procurement to one or more suppliers for the acquisition of specified goods for a period of time, at a price, and in an amount set forth in the contract.

(i) “Multiple award” means a contract of indefinite quantity for one or more similar goods, information technology, or services to more than one supplier.

(j) “Multiple award schedule” (MAS) is an agreement established between the General Services Administration of the United States and certain suppliers to do business under specific prices, terms, and conditions for specified goods, information technology, or services.

SEC. 2. Section 10290.1 of the Public Contract Code is amended to read:

10290.1. (a) Notwithstanding any other provision of law, in exercising their delegation of contracting authority from the department, state agencies may contract for goods, information technology, or services with suppliers who have multiple award schedules with the General Services Administration of the United States if the supplier is willing to extend those terms, conditions, and prices. The department may also develop multiple award schedules or agreements for use by state agencies in the same manner.

(b) The department shall determine the delegation contracting authority for agencies wishing to contract with suppliers who have multiple award schedules. The department shall seek input from both customer departments and agencies and private sector suppliers.

SEC. 3. Section 10298 of the Public Contract Code is repealed.

SEC. 4. Section 10298 is added to the Public Contract Code, to read:

10298. (a) The director may consolidate the needs of multiple state agencies for goods, information technology, and services, and, pursuant to the procedures established in Chapter 3 (commencing with Section 12100), establish contracts, master agreements, multiple award schedules, cooperative agreements, including agreements

with entities outside the state, and other types of agreements that leverage the state's buying power, for acquisitions authorized under Chapter 2 (commencing with Section 10290), Chapter 3 (commencing with Section 12100), and Chapter 3.6 (commencing with Section 12125). State and local agencies may contract with suppliers awarded those contracts without further competitive bidding.

(b) The director may make the services of the department available, upon the terms and conditions agreed to, to any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services for assisting the agency in acquisitions conducted pursuant to Chapter 2 (commencing with Section 10290), Chapter 3 (commencing with Section 12100), and Chapter 3.6 (commencing with Section 12125). The state shall not incur financial responsibility in connection with contracting for local agencies under this section.

SEC. 5. Section 10301 of the Public Contract Code is amended to read:

10301. Except in cases when the agency and the department agree that an article of a specified brand or trade name is the only article that will properly meet the needs of the agency, or in cases where the State Board of Control has made a determination pursuant to Section 10308, all contracts for the acquisition or lease of goods in an amount of twenty-five thousand dollars (\$25,000), or a higher amount as established by the director, shall be made or entered into with the lowest responsible bidder meeting specifications.

For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

SEC. 6. Section 10302 of the Public Contract Code is amended to read:

10302. Except in cases of emergency where immediate purchase of goods without bid is necessary for the protection of the public health, welfare, or safety, whenever the department contracts for goods in excess of twenty-five thousand dollars (\$25,000), or a higher amount as established by the director, the department shall advertise in the California State Contracts Register the availability of its solicitation, and interested suppliers, upon request, shall be furnished with copies of the solicitation. In addition to advertising in the California State Contracts Register, the department shall post in a public place a copy of the solicitation, which shall remain posted until seven days after an award has been made. Whenever a contract in excess of twenty-five thousand dollars (\$25,000), or a higher amount as established by the director, is made under this section or Section 10301 without the taking of bids, the department shall prepare a written document stating the fact of the contract together with the facts requiring the contract of the goods without the taking of bids.



This document shall be maintained by the department and shall be available as a public record.

SEC. 7. Section 10306 of the Public Contract Code is amended to read:

10306. Whenever a contract or purchase order under this article is not to be awarded to the lowest bidder, the bidder shall be notified 24 hours prior to awarding the contract or purchase order to another bidder. Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the department at least 24 hours prior to awarding the contract or purchase order. If prior to making the award, any bidder who has submitted a bid files a protest with the department against the awarding of the contract or purchase order on the ground that he or she is the lowest responsible bidder meeting specifications, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relative to the protest. In computing the 24-hour periods provided for in this section, Saturdays, Sundays, and legal holidays shall be excluded.

Within 10 days after filing a protest, the protesting bidder shall file with the State Board of Control a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

SEC. 8. Section 10324 of the Public Contract Code is repealed.

SEC. 9. Section 12100 of the Public Contract Code is amended to read:

12100. The Legislature finds that the unique aspects of information technology, as defined in Section 11702 of the Government Code, and its importance to state programs warrant a separate acquisition authority. The Legislature further finds that this separate authority should enable the timely acquisition of information technology goods and services in order to meet the state's needs in the most value-effective manner.

All contracts for the acquisition of information technology goods or services, whether by lease or purchase, shall be made by or under the supervision of the Department of General Services.

SEC. 10. Section 12101.5 of the Public Contract Code is amended to read:

12101.5. (a) It is the intent of the Legislature that agencies of the State of California use an acquisition method that is compatible with their short- and long-term fiscal needs in contracts relating to commodities and information technology goods and services. State agencies should be able to specify their anticipated life cycle requirements that would become one of the criteria for contractor selection. These agencies should be given the choice of suppliers to meet statewide standardization needs, unique service requirements, application requirements, and long-term satisfaction criteria. There



is a need for the State of California to enter into long-term contracts with annual cancellation and fund-out clauses, as required, to protect the state's interests as well as provide the option for multiyear renewals to encourage suppliers to develop higher levels of service and support throughout the contracts.

(b) The state may utilize multiple awards, including federal General Service Administration Multiple Awards Schedules and master agreements or contracts for goods, information technology, services, or consulting services. For purposes of this subdivision, a multiple award is an award of an indefinite quantity contract for one or more similar goods, information technology, or services to more than one supplier. Except for possible multiple awards as permitted by this subdivision, all the requirements of this chapter pertaining to other types of information technology acquisitions shall be followed. The department shall ensure that multiple award schedules are in compliance with all other applicable statutes.

(c) Notwithstanding any other provision of law, state agencies, in exercising their contracting authority delegated by the department, may contract with suppliers who have multiple award schedules with the General Services Administration of the United States on the same terms, conditions, and prices if the supplier is willing to do so. The department may also develop multiple award schedules or agreements for use by state agencies in the same manner. The department shall determine the delegation contracting authority for agencies wishing to use multiple award schedules.

SEC. 11. Section 12110 of the Public Contract Code is repealed.

